

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

BRANDON SMITH

Plaintiff,

v.

CHICAGO POLICE OFFICERS EDWARD
FULTON, STAR NO. 12724, VICTOR
CREED STAR NO. 12009 Individually and
as employees/agents of the CITY OF
CHICAGO and the CITY OF CHICAGO,
, a municipal corporation,

Defendants.

No.:

2008L008186

CALENDAR/ROOM B

TIME 00:00

Tort - Intentional

09CV373

JUDGE DARRAH

MAGISTRATE JUDGE COLE

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COMPLAINT AT LAW

Now comes the Plaintiff, BRANDON SMITH (hereinafter referred to as "SMITH"), by and through his attorneys, the Law Offices of Jeffrey J. Nelsund, and complaining against the City of Chicago and Chicago Police Officers EDWARD FULTON, STAR NO. 12724 and VICTOR CREED, STAR NO. 12009, (hereinafter referred to as "DEFENDANT OFFICERS") each of them Individually and as agents/employees of the City of Chicago, states as follows:

1. At all relevant times, Plaintiff, SMITH, was a citizen of the City of Chicago, County of Cook and State of Illinois.
2. Defendant City of Chicago, is a municipal corporation maintaining, as a division of said Municipal Corporation, a certain police department, commonly referred to as the Chicago Police Department.
3. At all relevant times, the City of Chicago employed police officers including the DEFENDANT OFFICERS.
4. At all times relevant, the defendant officers were employed by the Chicago Police

Department, and were authorized agents and representatives of the Chicago Police

Department acting within the scope of their employment with the City of Chicago, such that the City of Chicago is liable for their actions.

5. On July 27, 2007 at approximately 1:14 a.m., plaintiff SMITH was a passenger in a car that was pulled over by the DEFENDANT OFFICERS in the vicinity of 109TH Street and Esmond Street in the City of Chicago.

6. The defendant officers ordered both the Plaintiff SMITH and the driver of the car out of their vehicle.

7. After the plaintiff SMITH was ordered out of the car, one of the DEFENDANT OFFICERS handcuffed him and the other DEFENDANT OFFICER illegally searched the interior of the vehicle.

8. The DEFENDANT OFFICERS charged the Plaintiff with the felony offense of unlawful use of a weapon. The DEFENDANT OFFICERS signed police reports, felony complaints and traffic citations knowing the information contained therein was false.

9. The felony offense initiated by the DEFENDANT OFFICERS proceeded under Cook County Criminal case number 07 CR 18674.

10. On February 11, 2008, the DEFENDANT OFFICERS committed perjury in the Plaintiff's criminal case regarding the illegal stop, detention, search and arrest of the Plaintiff on July 27, 2007.

11. All criminal charges against the Plaintiff were dismissed by the Cook County State's Attorney's Office in a manner indicative of his innocence on February 11, 2008.

COUNT I
(False Arrest)

- 1-11. Plaintiff hereby incorporated and references paragraphs 1 through 11 of the Complaint as paragraphs 1 through 11 of this Count I.
12. At the time SMITH was arrested on July 27, 2007, the DEFENDANT OFFICERS and the Chicago Police Department knew that they lacked reasonable grounds to believe that SMITH committed any crime.
13. The conduct of the defendant Officers, the Chicago Police Department and the City of Chicago described above was willful and wanton.
14. As a direct and proximate result of the false arrest, Plaintiff has suffered and continues to suffer injuries, including physical and emotional suffering and humiliation, lost wages, and injury to reputation.

WHEREFORE, Plaintiff, prays for judgment against the DEFENDANT OFFICERS and the City of Chicago and in an amount in excess of Fifty Thousand Dollars (\$50,000.00).

COUNT II
(False Imprisonment)

- 1-11 . Plaintiff hereby incorporated and references paragraphs 1 through 11 of the Complaint as paragraphs 1 through 11 of this Count II.
12. At the time SMITH was locked up, imprisoned and detained on July 27, 2007, DEFENDANT OFFICERS and the Chicago Police Department knew that they lacked reasonable grounds to believe that SMITH committed any crime.
13. The conduct of the DEFENDANT OFFICERS, the Chicago Police Department and the City of Chicago described above was willful and wanton.
14. As a direct and proximate result of the false imprisonment, Plaintiff has suffered and

continues to suffer injuries, including physical and emotional suffering and humiliation, lost wages, and injury to reputation.

WHEREFORE, Plaintiff, prays for judgment against the DEFENDANT OFFICERS and the Defendant City of Chicago and in an amount in excess of Fifty Thousand Dollars (\$50,000.00).

COUNT III
(Malicious Prosecution)

1-11. Plaintiff hereby incorporates and references paragraph 1 through 15 of the Complaint as paragraphs 1 through 15 of this Count III.

12. At the time the criminal complaint was filed and the criminal case commenced against the plaintiff, DEFENDANT OFFICERS and the Chicago Police Department lacked probable cause to file the complaint and proceed with the criminal case.

13. In filing a false criminal complaint and testifying falsely in the criminal case, the DEFENDANT OFFICERS acted with malice towards plaintiff.

14. The dismissal of the criminal case on July 27, 2007 and the prosecutor's failure to re-file or reinstate the criminal case against SMITH was a termination of the proceedings in favor of SMITH.

15. As a result of the malicious prosecution of the criminal case, SMITH has suffered and continues to suffer injuries, including, physical and emotional suffering and humiliation, lost wages, injury to reputation, and attorneys fees.

WHEREFORE, the Plaintiff prays for judgment against the DEFENDANT OFFICERS and the City of Chicago and in an amount in excess of Fifty Thousand Dollars.

COUNT IV
(Intentional Infliction of Emotional Distress)

1-11 . Plaintiff hereby incorporates and references paragraph 1 through 11 of the Complaint as paragraphs 1 through 15 of this Count IV.

12. The conduct of defendant Officers described above was extreme and outrageous and went beyond all bounds of human decency.

13. At the time defendant Officers participated in the extreme and outrageous conduct describe above, they intended to inflict severe emotion distress upon plaintiff or knew that there was a high probability that their conduct would do so.

14. As a direct and proximate result of the extreme and outrageous conduct describe above, plaintiff suffered and continues to suffer from extreme emotional distress.

WHEREFORE, Plaintiff prays for judgment against the DEFENDANT OFFICERS and the City of Chicago and in an amount in excess of Fifty Thousand Dollars (\$50,000.00).

Respectfully Submitted,
Plaintiff, Brandon Smith

By: 

Jeffrey J. Neslund

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